

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

<b>DEAN LEE DAO, JR.,</b>	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 7:22-cv-00554</b>
	)	
<b>v.</b>	)	<b><u>ORDER</u></b>
	)	
<b>POCAHONTAS STATE</b>	)	<b>By: Joel C. Hoppe</b>
<b>CORRECTIONAL CENTER,</b>	)	<b>United States Magistrate Judge</b>
<b>Defendant.</b>	)	

Plaintiff Dean Lee Dao, Jr., a Virginia inmate proceeding *pro se*, filed this civil action under 42 U.S.C. § 1983. Having reviewed the complaint pursuant to 28 U.S.C. § 1915A(a), it is now

**ORDERED**

as follows:

1. The complaint shall remain conditionally filed pending satisfaction of the requirements set forth herein.
2. Plaintiff is advised that his complaint fails to state a claim under § 1983 against the named defendant. Section 1983 imposes liability on any “person” who, under color of state law, deprives another person “of any rights, privileges, or immunities secured by the Constitution and laws.” 42 U.S.C. § 1983. “To state a claim under § 1983[,] a plaintiff ‘must allege the violation of a right secured by the Constitution and laws of the United States, and must show that the alleged deprivation was committed by a person acting under color of state law.’” *Loftus v. Bobzien*, 848 F.3d 278, 284–85 (4th Cir. 2017) (quoting *Crosby v. City of Gastonia*, 635 F.3d 634, 639 (4th Cir. 2011)). A correctional facility is not a “person” subject to suit under § 1983. See *McCoy v. Chesapeake Corr. Ctr.*, 788 F. Supp. 890, 893 (E.D. Va. 1992). Accordingly, the complaint fails to state a claim against the only named defendant. Because the plaintiff is proceeding *pro se*, the court will give him twenty-one (21) days to file an amended

complaint. **In order to proceed with this action, the plaintiff must file an amended complaint, naming every person he intends to bring this action against and specifically describing how each person violated his federal rights. The amended complaint will replace his original complaint and constitute the sole complaint in this action. Failure to amend the complaint within twenty-one (21) days from the date of this order to correct the noted deficiency will result in the dismissal of the complaint.**

3. The Clerk is directed to send a copy of this order and a § 1983 form to the plaintiff.

ENTER: October 11, 2022

/s/ Joel C. Hoppe  
United States Magistrate Judge

AMENDED COMPLAINT  
IN THE UNITED STATES DISTRICT COURT  
Western District of Virginia

Urbanski

\_\_\_\_\_  
District Judge  
(Assigned by Clerk's Office)

Hoppe

\_\_\_\_\_  
Mag. Referral Judge  
(Assigned by Clerk's Office)

**CIVIL ACTION NO.** 7:22cv00554  
(Assigned by Clerk's Office)

For use by Inmates filing a Complaint under

**CIVIL RIGHTS ACT, 42 U.S.C. §1983 or BIVENS v. SIX UNKNOWN NAMED AGENTS  
OF FED. BUREAU OF NARCOTICS, 403 U.S.C. §388 (1971)**

Dean Lee Dao, Jr.

1474771

\_\_\_\_\_  
Plaintiff Name  
v.

\_\_\_\_\_  
Inmate No.

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

\_\_\_\_\_  
Defendant Name & Address

**IF YOU NEED TO ADD MORE DEFENDANTS, USE A SEPARATE SHEET OF PAPER, AND PUT  
NAME AND ADDRESS FOR EACH NAMED DEFENDANT.  
TITLE THE SECOND PAGE "CONTINUED NAMED DEFENDANTS"**

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**A. Where are you now? Name and Address of Facility:**

\_\_\_\_\_  
  
\_\_\_\_\_

B. Where did this action take place?

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C. Have you begun an action in state or federal court dealing with the same facts involved in this complaint?

\_\_\_\_\_ Yes          \_\_\_\_\_ No

If your answer to A is Yes, answer the following:

1. Court: \_\_\_\_\_

2. Case Number: \_\_\_\_\_

D. Have you filed any grievances regarding the facts of this complaint?

\_\_\_\_\_ Yes          \_\_\_\_\_ No

1. If your answer is Yes, indicate the result:

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2. If your answer is No, indicate why:

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E. Statement of Claim(s): State briefly the facts in this complaint. Describe what action(s) each defendant took in violation of your federal rights and include the relevant dates and places. **Do not give any legal arguments or cite any cases or statutes.** If necessary, you may attach additional page(s). Please write legibly.

Claim #1 – Supporting Facts – Briefly tell your story without citing cases or law:

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Claim #2 – Supporting Facts – Briefly tell your story without citing cases or law:  
(Additional Supporting Facts may be placed on a separate paper titled ADDITIONAL SUPPORTING FACTS)

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F. State what relief you seek from the Court. Make no legal arguments and cite no cases or statutes.

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G. If this case goes to trial, do you request a trial by jury? Yes \_\_\_\_\_ No \_\_\_\_\_

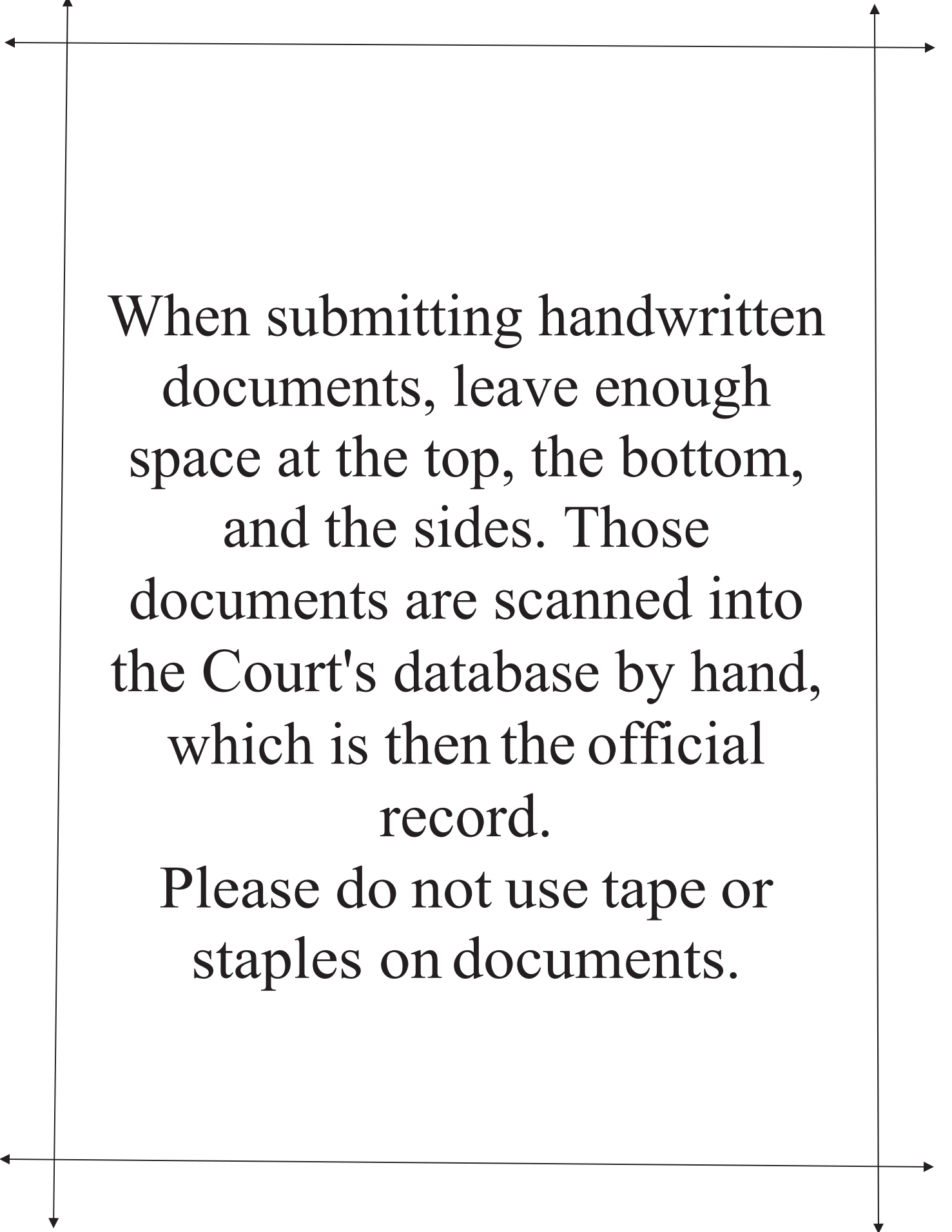
H. If I am released or transferred, I understand it is my responsibility to immediately notify the court in writing of any change of address **after** I have been released or transferred or my case may be dismissed.

DATED: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

VERIFICATION:

I, \_\_\_\_\_, state that I am the plaintiff in this action, and I know the content of the above complaint; that it is true of my own knowledge, except as to those matters that are stated to be based on information and belief, and as to those matters, I believe them to be true. I further state that I believe the factual assertions are sufficient to support a claim of violation of constitutional rights. Further, I verify that I am aware of the provisions set forth in 28 U.S.C. §1915 that prohibit an inmate from filing a civil action or appeal, if the prisoner has, on three or more occasions, while incarcerated brought an action or appeal in federal court that is dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, unless the prisoner is imminent danger of serious physical injury. I understand that if this complaint is dismissed on any of the above grounds, I may be prohibited from filing any future actions without the pre-payment of the filing fees. I declare under penalty of perjury the foregoing to be true and correct.

DATED: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_



When submitting handwritten documents, leave enough space at the top, the bottom, and the sides. Those documents are scanned into the Court's database by hand, which is then the official record.

Please do not use tape or staples on documents.